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## VEHICLE STOP DEMOGRAPHIC STUDY

In December 2000, San José Police Chief William M. Lansdowne released data from the pilot Vehicle Stop Demographic Study for the period July 1, 1999, to June 30, 2000. The study was designed to collect data that would identify the ethnicity, gender, age, location and action taken against a driver as a result of a vehicle stop by a police officer employed by the San José Police Department (SJPD). It was anticipated and believed that the results of this study would clearly show that members of the SJPD do not engage in racial profiling or conduct pretext stops of minority community members. As noted in the Independent Police Auditor (IPA) 1999 Year End Report, the SJPD was the first major city police department to voluntarily implement this type of study and collect vehicle stop data for review and analysis.

The term “racial profiling” has long been a sensitive issue that lacks an accepted and recognized definition. In regards to vehicle traffic stops, racial profiling for the most part is a police officer’s use of race or ethnicity as a deciding factor in making a traffic stop. Although the term racial profiling has been used to describe unwarranted stops on minority citizens, the terms “Driving

While Black” or “Driving While Brown” (DWB) have been used by the general public to describe how minorities believe they are characterized by law enforcement throughout the country.

Not every vehicle traffic stop of a minority is a result of racial profiling. It is important to remember that it is legal for a police officer to suspect or focus on an individual who has been identified or described as a person having committed a crime even when the description contains racial characteristics. On the other hand, it is racial profiling when an individual is stopped merely because of the type of car driven by certain minorities (stereotype), or just because they happen to be in a neighborhood that is predominately populated by a different racial or socioeconomic group. Suspicion must be based on more than just race or ethnicity. A stop by a police officer must be based on a reasonable suspicion. The U.S. Supreme Court in the landmark case, *Terry v Ohio* (1968) 392 US, defined “reasonable suspicion” as activity in which the facts or circumstances are out of the ordinary and the activity is related to a crime and the person to be stopped is related to that activity.

**Illustration A: SJPD Estimated Race/Ethnicity of San José Residents**

SJPD Estimated Race/Ethnicity of San José Residents (Used in this study)					
	African American	Asian American	Hispanic American	European American	Other
Estimated % of group within San José's total population	4.5%	21%	31%	43%	0.5%

## ANALYSIS OF VEHICLE STOP DATA

While statistics don't always tell the whole story, through the collection of similar data as that collected by the SJPD, it has been shown that racial profiling exists in some parts of the country. Even though the type of data being collected may be viewed as subjective and untrustworthy, the fact that law enforcement is taking the time to collect "racial profiling" data, is definitely a move in the right direction.

Because Census 2000 statistical data on the racial/ethnic breakdown of today's San José residents was not available, the SJPD had to estimate the racial/ethnic makeup throughout the city using 1990 census data. The above chart shows the estimated breakdown as projected by the SJPD.

During the twelve-month period of this

study, the SJPD made 97,154 vehicle stops. Of the 97,154 vehicle stops recorded in all four divisions, 25,064 stops were omitted from the Demographic Study. It could be argued that not factoring one-fourth of all stops recorded renders the study invalid.

However, this omission was due to the fact that these 25,064 stops were made by Special Traffic Enforcement teams. Special Traffic Enforcement teams are set up in response to complaints from residents or businesses and primarily include radar enforcement. These traffic stops are less subjective, include multiple officers, and multiple stages for each stop. To facilitate the collection of data, the study focused on four of the five Police Divisions: Western, Southern, Central, and Foothill. Unlike the Airport, the fifth division, which is a single reporting district, the four larger Divisions are divided into 16 separate policing districts. Geographically, each

policing district varies in size, depending on the population and/or the number of calls for service within the district. The number of officers assigned to each policing district vary throughout the districts. Of the roughly 646 officers assigned to field patrol duty throughout the city, 448 officers are assigned to the Foothill Division (Eastside) and the Central Division (Downtown) and its surrounding area.

In the December 1, 2000 Vehicle Stop Demographic Study, the SJPD reported that its analysis of the data collected in the study indicated that Hispanic Americans and African Americans are stopped at a rate slightly higher than their overall representation within San José as a whole. Although the figure for African Americans does not seem to be significantly disproportionate, the

**Illustration B: Vehicle Stop Data**

Police Districts	Landmarks within Police Districts	Officers Assigned	Hispanic Americans Stopped	% of Hispanics Stopped	Total # of People Stopped per District
P	Evergreen	41	1,547	37%	4,220
C	Alum Rock	46	2,785	63%	4,435
M	King/McKee	39	2,891	65%	4,446
W	Berryessa	38	1,129	36%	3,146
V	City Hall	36	2,233	50%	4,424
E	Downtown	37	1,278	33%	3,915
K	Empire Garden	48	3,318	55%	6,026
L	Fairgrounds	47	3,640	50%	7,228
F	Park/Race	34	1,278	33%	3,915
S	Delmas/Bird	44	2,194	46%	4,754
AP	Airport	38	23	46%	50
Total		448	22,316	48%	45,559

figure for Hispanic Americans on the other hand appears to be problematic and requires further study.

By the SJPD's estimates, Hispanics comprise approximately 31% of the population in San José and are known to be concentrated in higher numbers in some police districts. In looking at the central core of the city and analyzing the data from 10 of the 16 policing districts that cover the downtown and the Foothill (Eastside) Division, Hispanic Americans account for 48% of the vehicle stops in these areas alone. Illustration B shows the figures as

reported in the SJPD Report.

As previously mentioned, by the SJPD's estimate, Hispanic Americans represent 31% of the residents living in the City of San José. By just taking a broad view of the vehicle stop data collected in the core areas of San José, the number indicates that Hispanic Americans are being stopped at a rate significantly higher than their representative number in the community. If using 2000 census data, the rate of Hispanics stopped is closer to the population rate.

## *COMPLAINTS FILED ALLEGING RACIAL PROFILING*

In the San José Police Department's December 2000, Vehicle Stop Demographic Study, it reported that only 16 official complaints were received from citizens claiming to have been subjected to a racial profile stop. There are several reasons for this low number in official complaints filed for alleged racial profiling. Currently, the SJPD has only one classification for chronicling a complaint of racial profiling and that is Discrimination/Harassment (DH).

Because of the stigma associated with an allegation of discrimination, before a police officer is made the subject of a discrimination allegation, the SJPD requires that a complaint must contain what it considers objective criteria. For example, allegations that the officer used a derogatory word; term; gesture or action that shows bias or can be construed as discriminatory. Therefore, the mere fact that a person feels they were stopped because of their race is not currently considered sufficient objective criteria to constitute a complaint for racial profiling. This is the case even if the person affirms they were stopped for no apparent reason, handcuffed, searched and subsequently

released with no legal action taken against them. In most cases, this type of complaint would be handled informally and not undergo the same level of investigation. Efforts have been made to capture racial profiling allegations as part of the complainant's statement, even if it is not an official discrimination allegation. This will allow tracking and future analysis of this serious concern.

A close study of the 16 racial profiling complaints and those citizen contacts that did not rise to a complaint because the allegations lacked objective criteria, revealed the following. Only in the Southern Division was the number of stops of European American rates higher than the corresponding percentage rate of the total population (10% higher). In all four divisions, African Americans were stopped at a slightly higher rate than the "Estimated percentage Group within San Jose's Total population (4.5%)." An examination of these cases indicates that there were several types of "racial profiling" complaints. Several complainants felt they were stopped solely because they

were driving a nice car and because they were African American. Some Hispanic complainants felt that the reason they were stopped was because of the way they "looked," either because of their long hair and tatoos or simply because they "looked Hispanic." Several Hispanic complainants also alleged that they were stopped because of the type of car they were driving.

### *PROCESS FOR DATA COLLECTION*

The SJPD has been recognized for being the first to voluntarily implement a process for addressing the issue of racial profiling; however, more needs to be done and the program objectives need to be widened. The SJPD has prided itself on creating a data collection process that is easy to manage and uses Computer Aided Dispatching (CAD) technology already in place for tracking officer activity in the field. In the December 2000, Vehicle Stop Demographic Study, the SJPD reports that the scope of the program was limited by the officer's acceptance of a data collection process that was not

intrusive of their time. To accomplish this, the department developed a process using alpha codes, like those already in use, that could be easily recited or manually entered by the officer at the end of a vehicle stop.

### *MOVING FORWARD WITH MORE DETAILED DATA*

Although this was an acceptable starting point for the San José Police Department, other law enforcement agencies have started collecting similar data and have expanded the scope of the data being collected to include much more detail. In San Diego California, the San Diego Police Department (SDPD) started collecting data in January 2000.<sup>1</sup> During a six-month reporting period, the SDPD documented 91,522 stops. SDPD officers are required to fill out a form (4x6 card) in the field. The card usually takes no more than 20 seconds to complete, and collects data as noted below.<sup>2</sup> As a result of this study, the SDPD found that in comparison to the characteristics of San Diego's driving-age resident population, both Hispanic

<sup>1</sup> San Diego Police Department, September 21, 2000, Vehicle Stop Mid-Year Report, ("SDPD Stop Study")

and African American's drivers were over-represented in vehicle stops. experience searches and arrests than Asian or European American drivers.”<sup>3</sup> In Sacramento, California, the Sacramento Police Department (SPD) has clear guidelines in regards to chronic vehicle stop data.<sup>4</sup> The SPD's July 2000 General Order 210.08 requires recording of search data, including the legal basis and factual basis for the search.

More interesting, the San Diego vehicle stop data indicated that, once stopped, Hispanic and African American drivers were substantially more likely to

It is important for the SJPD to collect detailed “search information” similar to the Sacramento Police Department and

2 The San Diego PD collects for every vehicle stop:

- Date and time of stop;
- Division where stop occurred;
- Primary reason for the stop (moving violation; equipment violation; radio call/citizen contact; officer observation/knowledge; supplemental information on the suspect, etc.);
- Driver's sex and age;
- Driver's race;
- Action taken (citation, written warning, verbal warning, field interrogation);
- Whether the driver was arrested;
- Whether the driver was searched, and if so:
  - Type of search (vehicle, driver, passenger;
  - Basis for the search (visible contraband, contraband odor, canine alert, consent search: 4<sup>th</sup> Amendment waiver, search incident to an arrest, inventory search prior to a vehicle impound, observed evidence related to criminal activity;
  - Whether a Consent to Search Form was obtained;
  - Whether contraband was found;
  - Whether property was seized.

3 If stopped, Latinos had a 10.6 percent chance of being searched; blacks a 10.2 percent chance; Asians and Pacific Islanders, a 3.4 percent chance; and Whites, a 3.0 percent chance. If inventory of impounded vehicles were not counted, blacks had a 5.8 percent chance of being searched; Latinos, 2.8 percent; Asian/Pacific Islanders, 2.0 percent; white, 1.5 percent. If stopped, blacks had a 3.0 percent chance of being arrested; Latinos, 2.7 percent; white, 1.3 percent; Asian/Pacific Islander, 0.9 percent. Id.

4 SPD employs a Scantron Form, which has 17 different variables for the officer to fill out. The form is set up so that it can be filled out quickly after each stop by darkening an appropriate box in each category. The 17 categories and related choices are;

- Time of stop, with choices for a.m. or p.m. and the hour and minute of the stop;
- Date of stop, with choices for date, month and year;
- Reason for stop, with choices for:
  - Hazardous violation of the Vehicle Code;
  - Violation of the Penal Code;
  - Violation of a city ordinance;
  - Call for service;
  - Preexisting knowledge or information;
  - Equipment or registration violation;
  - Special detain (i.e., DUI Checkpoint; narcotic suppression detail)
  - Other
- Race, gender of the driver;
- Driver's date of birth;
- Driver's license number and state;
- Yes or no to whether the driver was asked to exit the car;
- Was a search done, with choices for the driver, passenger, or the vehicle or no;
- Search authority, with choices for consent. Terry cursory (reasonable grounds to believe that a person may be armed and dangerous), incident to an arrest, parole/probation, or tow inventory;
- What was discovered or seized with choices for weapons, drugs, cash, the vehicle, alcohol, other property, or nothing;
- The results of the stop, with choices for citation, arrest, etc;
- The stop location, by precinct;
- The vehicle license plate and state;
- The duration of the stop and total minutes;
- The officer's badge number and the badge number of a secondary officer, if applicable;
- Whether the patrol car was equipped with a video camera or not.

the San Diego Police Department. In addition, officers should chronicle the factual basis for the stop and the action taken as a result of the stop.

## ***IPA ANALYSIS***

The SJPD study attributes the increased number of stops of minorities to socio-demographic realities of the city and the necessity by the SJPD to deploy more officers accordingly. The hypothesis raised in the study is that more officers are assigned to higher crime sectors/precincts; therefore, minorities who live in these neighborhoods in greater numbers are more likely to get stopped. This analysis may be plausible, but does not explain why Hispanics are being stopped in many areas where they don't have a large presence or residence. For example, in analyzing the police districts in the Foothill Division, Hispanics make up a large percentage of the residents in the Mary<sup>5</sup> and Charles<sup>6</sup> police districts, but Hispanics do not reach the same

proportions in the other two policing districts, Paul<sup>7</sup> and William.<sup>8</sup>

Using the 2000 Census data, the SJPD should attempt to determine the number of licensed drivers within each racial/ethnic group within each police division. For example, of the 31% Hispanic population in San José, what percentage is of driving age? Currently, Hispanics are stopped more often than the number of Hispanics living in San José based on the number of vehicle stops in all four divisions (72,090). Would this percentage increase if the percentage of persons of driving age was known?

The SJPD Demographic Study involved 97,154 vehicle stops made in San José's four police divisions from July 1, 1999 to June 30, 2000. It appears that every third stop was of a Hispanic and every fourth stop was of a European American. The other stops included African Americans, Asian Americans and other ethnic groups. An analysis of the

complaints received, whether at Internal Affairs or at the Office of the Independent Police Auditor, revealed that complaints alleging racial profiling stops were based more on poor communication skills by the officer than objection to the stop itself. Officers require good communication skills in every aspect of their police duties. Yet, they receive very little training in developing good communication and interpersonal skills. This is an area that the SJPD has made some progress and should continue to refine police officers' people skills.

## ***RECOMMENDATIONS***

1. The Chief of Police should expand the fields for data collection to determine how the individual stopped was treated, i.e. was there a search. This should include search information and the factual basis for a stop and the action taken by the officer as a result of the stop.

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5 King and McKee is located in the Mary Police District, within the Foothill Division.

6 Alumn Rock is located in the Charles Police District, within the Foothill Division.

7 Evergreen is located in the Paul Police District, within the Foothill Division.

8 Berryessa is located in the William Police District, within the Foothill Division.

2. Develop a uniform definition of and process for tracking all “Racial Profiling” allegations in all instances where the complainant alleges that his/her vehicle stop or police contact was racially motivated.
  
3. The San José Police Department should expand the platform of the database used by the Internal Affairs Unit to facilitate the recording, tracking, and analysis of “Racial Profiling” and all other types of citizen complaints.